

REMARKS/ARGUMENTS

The rejection of Claims 1-13 under 35 U.S.C. § 112, second paragraph has been obviated by amendment. As the Examiner will note, the claims are now free of the criticisms listed on pages 3 and 4 of the Office Action. Accordingly, Applicants request that the rejection be withdrawn.

Applicants have amended the Abstract to conform with the rules under 37 C.F.R. § 1.72, and therefore, Applicants request that the objection to the specification be withdrawn.

Applicants request that the Examiner acknowledge priority of the foreign applications under 35 U.S.C. § 119. Under 35 U.S.C. §§ 120 and 365(c) the application is entitled to a U.S. file date of an international application which designates the U.S. The PCT application was filed on August 23, 2002 and designated the United States. Applicants have attached a copy from the International Bureau that the Bureau has communicated to the USPTO that the U.S. was designated in the PCT application. Applicants also have attached a notification of receipt of record copy from the International Bureau that shows the U.S. was designated in the PCT application. Accordingly, the effective U.S. file date of this U.S. application is August 23, 2002.

Further, Applicants note that the present application is a continuation (by-pass) application and in contrast to an application entering the national stage under § 371, a by-pass application does not require a Chapter II election, only a U.S. designation. A PCT by-pass application does not become abandoned until after 30 months from the earliest priority date. Since the present application was filed less than 25 months after the earliest priority date (August 24, 2001) the PCT application was still pending when the present U.S. application was filed on August 29, 2003. Since the U.S. application was co-pending with the PCT application the effective U.S. filing date of the U.S. application is August 23, 2002 (PCT filing date). Therefore, since the PCT application was filed within one year of the priority

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documents and the current Continuation Application was copending with the PCT application, Applicants are entitled to priority under § 119.

The Examiner is invited to review the rules for continuation (by-pass) applications in § 1895.01 of the M.P.E.P. Under these rules as discussed above, Applicants are entitled to priority of the foreign applications and Applicants request that the Examiner acknowledge the claimed priority.

Respectfully submitted,

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